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02/18/98

PROGRAMMATIC AGREEMENT AMONG THE BUREAU OF LAND MANAGEMENT,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS
REGARDING THE MANNER IN WHICH BLM
WILL MEET ITS RESPONSIBILITIES UNDER
THE NATIONAL HISTORIC PRESERVATION ACT

STATE PROTOCOL AGREEMENT

Between

The Wyoming BLM State Director
and
The Wyoming State Historic Preservation Officer

This Protocol Agreement (Protocol) supplements the above referenced National Programmatic Agreement (PA). It describes agreements specific to how the Wyoming State Historic Preservation Officer (SHPO) and the Wyoming BLM will interact and cooperate under the National Programmatic Agreement. The goal of the National Programmatic Agreement and this Protocol is to forge a more meaningful and productive partnership with SHPO that will enhance the management of historic properties under the BLM's jurisdiction.

I. RELATIONSHIP TO OTHER AGREEMENTS

Relevant sections of the Wyoming Statewide Programmatic Agreement have been incorporated into the National Programmatic Agreement and this Protocol. As a result, the Wyoming Statewide Programmatic Agreement, signed June 27, 1995, is terminated. Further, all other existing project and special purpose programmatic agreements are terminated unless specifically noted in Appendix A.

Other PAs and MOAs may be developed when specific agreement documents are needed to define procedures which are not covered under the National PA or this Protocol. Additionally, when more than one Federal agency is involved in an undertaking and BLM accepts lead responsibility for Section 106 compliance, the BLM and SHPO may agree to follow the procedures of the National PA and this Protocol instead of developing a separate agreement document. When more than one Federal agency is involved in an undertaking, and an agency other than BLM takes lead responsibility for Section 106 compliance, the National PA and this Protocol do not apply.

II. ADMINISTRATIVE INTERACTION AND REPORTING REQUIREMENTS

The BLM will prepare an annual summary report to the SHPO that describes the implemented actions taken in the previous fiscal year. This report will be due to the SHPO by February 15th of each year and will include information as outlined in Appendix B.

The SHPO and SHPO staff, the BLM State Director, the BLM Deputy State Director for Resources Policy and Management, the BLM Field Managers, the BLM Deputy Preservation Officer, and the BLM cultural resources specialists will meet annually in April to review and discuss procedures and policies for managing cultural resources under the National PA and this Protocol. The Advisory Council on Historic Preservation (Council) will be invited to participate.

III. SHPO INVOLVEMENT IN BLM STATE MANAGEMENT PROCESSES

To encourage broader and more proactive participation by SHPO in BLM's management activities related to cultural resources management, the BLM offers the following opportunities:

Planning Efforts. Each Field Office responsible for preparing a land use plan (Resource Management Plan or RMP amendment) or preparing a cultural resource activity plan at the regional or local level will, when beginning its planning effort, invite the SHPO to participate in scoping for the purpose of identifying issues that should be addressed in the plan. The BLM will invite the SHPO to comment on any proposed cultural resource use allocations, whether they are made in regional, local, or project plans. Field Offices will send all draft and final land use plans and cultural resource project plans to the SHPO.

Project Consultation. As major projects become known, each Field Office Manager has the responsibility to contact the SHPO to discuss upcoming projects that are likely to affect cultural resources (i.e., large land disturbing projects, land exchanges, land sales, etc.). This consultation should occur as early as possible in the planning process with the objective being to facilitate the accomplishment of these projects in ways that meet heritage preservation goals. Such consultation may be by telephone or by meetings which may be held at the State Historic Preservation Office or the BLM Field Office, as agreed between the Field Office Manager and the SHPO.

Other Meetings and Informal Consultation. The SHPO is encouraged to meet with the Wyoming State Office or a Field Office Manager at any time to discuss annual work plans, specific undertakings, outreach efforts, or other issues related to the BLM's management of cultural resources. The BLM will make every effort to arrange such meetings in a timely manner and to provide information requested by SHPO. The SHPO and Field Office personnel may consult informally at their discretion on specific undertakings or any aspect of BLM's cultural resource management program.

Field Tours. BLM Field Offices will notify the SHPO, in writing, of all public

field
tours
relating
to land
use
planning
efforts
(RMPs and
RMP
amendments
) or to
Environmen
tal Impact
Statement
(EIS)
planning
efforts
that may
affect
historic
properties
. The
SHPO's
views will
be
specifically
requested
with
regard to
management
of
cultural
resources
involved.

IV. COOPERATIVE PROGRAM DEVELOPMENT AND ACTIVITIES

The BLM and the SHPO recognize the advantages of working together on a wide range of heritage preservation activities and will cooperatively pursue the following efforts:

A. Data Sharing and Information Management

1. Reports. Field Offices will send the SHPO copies of all cultural resource inventory reports, research designs, treatment plans, and other reports, generated by actions initiated or authorized by BLM. This also includes inventory reports for actions in which no cultural resources are identified. BLM will submit to SHPO copies of all reports for cultural resource inventories, including site forms, as soon as possible, but no later than 30 calendar days after BLM review and acceptance of the report.

All known "backlog" documentation that exists in BLM files and which predates the signing of this Protocol should be submitted to the SHPO Review and Compliance Office within

one year of the implementation of this Protocol. If SHPO or a BLM Field Office are aware of specific backlog documentation held in either office, both the SHPO and the BLM Field Office should work cooperatively to provide the documentation to the office requesting it.

2. Reporting Standards. BLM and SHPO will collaborate on the development of standards for preparing inventory and treatment reports, and jointly develop isolated artifact and site forms.

3. Data System Management. BLM and SHPO will, through a Cooperative Agreement, develop a Statewide automated cultural records database which will be accessible from all BLM Field Offices. The BLM and SHPO will further collaborate on ways to synthesize and use the automated cultural data to develop Geographic Information System (GIS) capabilities. BLM and SHPO will continue to cooperate in this endeavor by providing financial, personnel, hardware and software resources as funding becomes available.

B. State BLM Handbook Supplement

The SHPO will be invited to participate in the development of BLM cultural resources management and field operations procedures. These procedures will be detailed in a State BLM Handbook as a supplement to BLM Manual procedures. Disagreement between BLM and SHPO regarding either development or implementation of Handbook procedures will be resolved in accordance with the dispute resolution procedures at Section IX of this Protocol. All future changes or amendments to the Handbook procedures will be made in cooperation with the SHPO.

C. Public Outreach and Heritage Education

The BLM and the SHPO will work cooperatively to promote and enhance public education and outreach in historic preservation and cultural resources management through the following programs:

1. Archaeology Awareness Month. The BLM and the SHPO will participate in and support financially, as funding permits, *Archaeology Awareness Month* activities, including public presentations, field tours and excavations, exhibits, archaeology fairs, posters, brochures, and educational activities.

2. Project Archaeology. The BLM and SHPO will support *Project Archaeology* as a component of BLM's Heritage Education Program, by encouraging staff archaeologists to be trained and serve as facilitators in the program, with the goal of integrating the teaching of archaeological concepts and preservation ethics in Wyoming schools statewide.

3. Adventures in the Past/Heritage Education. The BLM and SHPO may, as funding permits, cooperatively work on the development of interpretation of cultural resources through a variety of media including, but not limited to, exhibits,

brochures, lectures, radio and television promotions, and interpretive signs.

4. Wyoming Archaeological Society. The BLM and SHPO are encouraged to work cooperatively with the Wyoming Archaeological Society to promote preservation ethics, good science, and professional standards statewide to amateur archaeologists by participating in society meetings, serving as chapter advisors, providing presentations and demonstrations, and providing assistance as appropriate.

D. State-Level Historic Preservation Training

The SHPO will assist the BLM and/or participate in both the initial training and future on-going training of Field Office Managers and cultural resources staff relative to the National PA and implementation of this Protocol. Training resources might include, but are not limited to, Wyoming BLM State Handbook or Manual Supplements, planning documents, and statewide historic context documents. Review of training needs and/or additional training will occur on a yearly basis and will coincide with the annual review meeting to be held in April.

E. Historic Context Development

The BLM and SHPO will jointly work to develop standards and guidelines for the development of historic contexts within Wyoming and will strive to involve participation from other Federal land-managing agencies within the state. The BLM and the SHPO will cooperatively recommend statewide priorities for historic context development involving BLM lands. Recommendations will be considered in the BLM budget process as a statewide benefitting program. Field Managers may also develop project-specific contexts as their funding allows. In accordance with Section 101(b)(3) of the National Historic Preservation Act, whereby the SHPO has responsibility for the preparing and implementing the State's comprehensive historic preservation plan, the SHPO shall review and approve all historic contexts developed within Wyoming.

F. Public Participation

The BLM will seek and consider the views of the public when carrying out actions under the terms of this Protocol. The BLM will solicit such input through the public participation opportunities afforded by BLM's land use planning and environmental review processes established under the National Environmental Policy Act (NEPA) of 1970 and the Federal Land Policy and Management Act (FLPMA) of 1976, and in accordance with regulations at 43 CFR Part 1610.3. Interested parties shall be invited to participate in the review process [Section VII (B) below] if they have interests in a BLM undertaking or action on historic properties. Such interested parties may include, but are not limited to, local governments, grantees, permittees, or owners of affected lands or land surfaces, Indian tribes, and

other interested parties determined jointly by BLM and SHPO.

V. NATIVE AMERICAN PARTICIPATION

The BLM will consider the effects of its undertakings on historic properties significant to Native Americans because of an association with tribal history or because of a property's traditional religious or cultural importance to a tribe. In consulting with Indian tribes or authorized tribal representatives, the BLM will be guided by the following:

- BLM Manual 8160, *Native American Consultation and Coordination*
- BLM Handbook H-8160-1, *General Procedural Guidance for Native American Consultation*
- Executive Order No. 13007, *Indian Sacred Sites*

Additionally, if Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony are encountered as a result of a BLM undertaking, the BLM will comply with Section 3 of the Native American Graves Protection and Repatriation Act (NAGPRA) and its implementing regulations at 43 CFR Part 10, Subpart B. These situations will also be treated as archaeological discoveries and appropriate discovery procedures, as defined in the BLM Handbook or other guidance developed jointly between the BLM and the SHPO, will be followed.

VI. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

The BLM will ensure that historic properties which may be affected by any undertaking are identified and evaluated in accordance with 36 CFR Part 800 and follow the procedures established below. The BLM will ensure that project-specific surveys and other efforts to identify and evaluate historic properties are conducted in accordance with appropriate professional standards as defined in BLM Manual 8110, *Identifying Cultural Resources*, BLM Manual 8120, *Protecting Cultural Resources*, Wyoming BLM supplements, the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation*, and relevant SHPO guidance.

A. Identification

1. The BLM will, during the earliest feasible planning stage of any undertaking, determine the information needed to identify and evaluate historic properties situated within the area of potential effects. Such determination may be based on a file search of the BLM cultural resource records, aerial photographs, GLO records, BLM land records, resource management plan, project-specific NEPA documents of the proposed project area and on information sought and obtained from the SHPO and from interested persons.

2. If the BLM determines that a Class III inventory of the area of potential effects (APE) is necessary, the BLM need not seek the SHPO's views on identification efforts. If the

BLM determines to conduct an inventory at less than a Class III level of intensity, BLM will consult with the SHPO on the adequacy of the inventory design prior to initiating the inventory or authorizing the proposed undertaking. Any disputes over the adequacy of the proposed inventory efforts shall be resolved in accordance with the dispute resolution clause at Section X.A of this Protocol.

3. The BLM may determine that some very large projects (e.g., geophysical projects or land transfers) can be more efficiently completed if segmented. If a project is to be segmented, the SHPO should be notified in accordance with the BLM Handbook or other guidance developed jointly between the BLM and the SHPO. Reports for segmented projects should be submitted as per Section VII.B.7 of this Protocol.

4. If the BLM determines that no historic properties are present in the APE as a result of the Class III survey inventory, BLM will submit its report to the SHPO immediately upon review and acceptance, notify interested persons, and proceed with the undertaking.

B. Evaluation

1. The BLM will ensure that any properties identified within a survey area, including the APE, are evaluated in accordance with the provisions of this Protocol. Evaluations shall be consistent with the *Secretary of the Interior's Standards and Guidelines for Evaluation* (48 FR 44729-44738) and other relevant guidance such as *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation*. Field Office cultural resource specialists may, however, under special circumstances and with justification, determine that sites outside of the APE do not need to be evaluated if avoided by an appropriate distance. Such a determination can be made only after consultation with the SHPO. The appropriate distance of avoidance for certain types of cultural resources will be defined in the BLM Handbook or other guidance developed jointly between the BLM and the SHPO.

2. Cultural resource inventories conducted specifically for geophysical exploration projects will not be required to evaluate identified properties provided the properties are avoided by an appropriate distance.

3. The appropriate size of APEs for specific types of projects will be defined in the BLM Handbook or other guidance developed jointly between the BLM and the SHPO. The size of the survey area outside of an APE shall be at the discretion of the BLM cultural resource specialist.

4. Using the guidelines referenced at VI.B.1. above, the BLM cultural resource specialist will determine if properties significant only for their potential contribution to archaeological and historical research are eligible for the National Register. The effectiveness of the BLM's

evaluation of these properties may be discussed by the SHPO and BLM at the annual review meeting.

5. Excluding property types discussed under VI.B.4 and linear features, the BLM will evaluate all other properties in consultation with the SHPO. Linear features may be recorded and evaluated as specified in Appendix D, "Recordation and Evaluation of Linear Features". If the BLM and the SHPO agree that no properties identified within an undertaking's area of potential effects qualify for listing on the National Register, BLM may proceed with the undertaking.

6. If the undertaking is modified through project relocation to avoid effects to historic properties (e.g., project redesign, erection of barriers, fencing of construction), the BLM will submit its report, as approved by the BLM cultural resource specialist, to the SHPO and proceed with the undertaking.

7. If the BLM and SHPO cannot resolve a disagreement on the eligibility of a property, the BLM will seek a formal determination of eligibility from the Keeper of the National Register pursuant to 36 CFR Part 63.2.

8. Historic properties eligible under Criterion D [36 CFR Part 60.4(d)] may contain areas with significant cultural deposits and areas which would contribute little or no information about prehistory or history. When an undertaking is planned within the boundaries of these properties and will not affect the qualities which contribute to the significance of the property, it will be considered a **no adverse effect** situation. The BLM will submit its report, as approved by the BLM cultural resource specialist, to the SHPO and proceed with the undertaking.

9. The BLM and the SHPO may jointly determine a class or classes of properties to be ineligible for listing on the National Register and not meriting further consideration for purposes of Section 106.

C. Exemptions

Actions exempted from case-by-case review are identified at Appendix C, subject to the following:

1. The BLM cultural resource specialist will, after determining information needed to identify and evaluate cultural properties, determine if specific projects or activities should appropriately be exempted from case-by-case review, as described in Appendix C.

2. Upon recommendation by any party to this Protocol, other classes of exempted actions may be added to Appendix C if the BLM and the SHPO agree that such undertakings qualify.

3. A record listing all undertakings authorized under this section will be documented in the Annual Report in accordance with the information requirements stipulated in Appendix B.

D. Disturbed Areas

If the proposed undertaking is not exempt, the BLM cultural resource specialist will determine whether previous ground disturbance has modified the surface so extensively that the probability of finding intact cultural properties is negligible.

If such disturbance has occurred in the area of potential effect, the BLM may proceed with the undertaking. A record listing all undertakings authorized under this section will be documented in the Annual Report in accordance with the information requirements stipulated in Appendix B.

E. Previous Adequate Inventory

The BLM cultural resource specialist will determine whether the area of potential effects has been adequately inventoried for historic properties. If an adequate Class III inventory has been completed (generally after 1980 as defined in the Wyoming BLM Handbook) and previously reviewed by the SHPO, the BLM may choose to proceed. A record listing all undertakings authorized under this section will be documented in the Annual Report in accordance with the information requirements stipulated in Appendix B.

VII. CASE-BY-CASE REVIEW PARAMETERS

A. Review Thresholds

At a minimum, the BLM will request the review of the SHPO in the following situations:

1. Non-routine interstate and/or interagency projects or programs.
2. Undertakings directly and adversely affecting National Historic Landmarks or National Register eligible properties.
3. Undertakings involving property types that are evaluated under Criteria A, B, or C [36 CFR Part 60.4].
4. Land exchanges or land sales affecting historic properties which will no longer be under BLM ownership or management.
5. Undertakings that are determined by the BLM or the SHPO to be highly controversial (e.g., undertakings that receive unusual public attention and/or involve significant conflict related to cultural resources).

B. General Review Process

The BLM will make determinations of eligibility according to 36 CFR Part 60.4. If requested by the BLM, the SHPO will have 30 days to comment on BLM's determination of eligibility and/or effect. These may be done concurrently.

1. BLM will confer with the SHPO whenever questions about eligibility and/or effect arise.

2. When a historic property is located within an undertaking's area of potential effects, and Section VI.B.6 of this Protocol does not apply, the BLM shall consult with the SHPO to assess effects.

3. Properties determined by the BLM to be potentially eligible under criteria other than Criterion D will require consultation with SHPO to determine eligibility. The SHPO will have 30 calendar days to comment. If the BLM and SHPO disagree on the eligibility of a property, BLM will seek a determination of eligibility from the Keeper of the Register pursuant to 36 CFR Part 63.2.

4. The BLM will notify the SHPO of any proposed treatments for findings of no adverse effect where Section VI.B.6 does not apply, and will afford the SHPO 10 days to request a review of a treatment plan. The BLM will afford the SHPO 30 calendar days to comment on treatment plans for findings of no adverse effect, and provide the SHPO with final reports on the implementation of treatments.

5. If the SHPO objects to the BLM's finding of effect or treatment, and the issue cannot be resolved through consultation pursuant to Section X.A (Dispute Resolution Procedures) of this Protocol, the undertaking will be considered "highly controversial" and will require Council review.

6. Unless otherwise agreed, the BLM shall afford the SHPO 30 calendar days from receipt of appropriate documentation to respond to any BLM communication regarding identification, evaluation, effect determination (if not covered under Section VI.B.4-5), or treatment of effects. Should the SHPO not respond within the appropriate time limit, the BLM may assume SHPO concurrence and can proceed with the BLM's proposed course of action. The BLM will document non-response by the SHPO in the case file for cases where review is requested or required.

7. Project-related communications to the SHPO should proceed in accordance with the sequence of consultations as specified in this Protocol. The BLM may also request comments for an individual portion of a project (e.g., segmented inventories like large geophysical projects or land transfers). Each segment of a project will be inventoried and reported as though it is a complete project.

The first report submitted for a segmented project will include a brief description of the overall project. The same BLM and SHPO tracking numbers will be assigned to all subsequent documentation relating to other segments of the

project.

VIII. DISCOVERY SITUATIONS

A. Planning For Discoveries

The BLM will encourage applicant development of discovery plans for large and complex undertakings and those involving land disturbance in areas known to contain buried sites. Copies of such discovery plans will be forwarded to the SHPO for review along with BLM's determination of effect for the project.

B. Unplanned Discoveries

If the BLM determines after completion of the review process outlined in this Protocol that an undertaking may affect or has affected a previously unidentified property that may be eligible for the National Register, the BLM will be required to follow appropriate discovery procedures defined in the BLM Handbook or other guidance developed jointly between the BLM and the SHPO.

IX. STAFFING AND OBTAINING SPECIALIZED CAPABILITIES

A. Staffing

The BLM will only allow identification and evaluation of cultural resources by specialists who meet the qualifications and are classified in the appropriate professional series by the Office of Personnel Management (e.g., Series 193 for archaeologists). Specialists at the GS-5 and GS-7 levels are considered to be performing duties in a trainee or developmental capacity. Reports prepared by GS-5 and GS-7 specialists must be reviewed and submitted to the SHPO by a GS-9 or higher grade cultural resources specialist.

When new managers or cultural resources specialists are hired by a BLM Field Office, the BLM will ensure that the new managers or cultural resources specialists receive orientation, within 90 days, in BLM Manual procedures and procedures for operating under this Protocol. SHPO review will be required, within 30 days, for all undertakings for a period of one year for reports submitted by a new cultural resources specialist (GS-9 or higher). This requirement may be waived by the SHPO if earlier confidence with the specialist is documented. If the SHPO documents persistent problems, review will continue for a period agreed upon by the BLM and the SHPO. The BLM Deputy Preservation Officer will work with the new cultural resources specialist to resolve persistent problems.

B. Specialized Capabilities

When the BLM is involved in an undertaking requiring expertise not possessed by available BLM staff (e.g., architectural history), it will obtain that expertise for the purpose of determining National Register eligibility, effects, and treatment for the cultural properties in question. The BLM may request the assistance of SHPO staff in such cases or may obtain the

necessary expertise through contracts, BLM personnel from other states, or cooperative arrangements with other agencies.

X. DISPUTE RESOLUTION PROCEDURES, AMENDMENTS, AND TERMINATION

A. Dispute Resolution Procedures

If, at any time, the BLM or the SHPO question an action taken by the other under this Protocol, they will consult to resolve the issue. If the issue concerns an action taken by a Field Manager, the questioning party will consult with the Field Manager to resolve it. If the issue cannot be resolved, the questioning party will request the BLM's State Deputy Preservation Officer to assist in resolving it. If the issue still cannot be resolved, the BLM State Deputy Preservation Officer will refer the issue to BLM State Director to negotiate a resolution with the SHPO. The State Director may refer the matter to the BLM Preservation Board which will provide recommendations to the State Director. If the issue cannot be resolved between the BLM State Director and the SHPO, the issue will be considered "highly controversial" and the questioning party may ask the Council for review. The questioning party will request that the Council's comments be received within 30 calendar days. If the BLM does not accept the advice of the Council and feels that further consultation will not be productive, it may terminate the consultation process and make its decision.

B. Amendments to the Protocol

If the BLM or the SHPO wish to amend this Protocol at any time, they will consult to consider requested changes. Amendments will become effective when signed by both parties.

C. Termination of the Protocol

The BLM or the SHPO may terminate this Protocol by providing 90 days notice to the other party, providing that they consult during this period to seek agreement on amendments or other actions that would avoid termination. The BLM State Deputy Preservation Officer may request the assistance of the BLM Preservation Board, National Conference of State Historic Preservation Officers, or the Council in the consultation. If the Protocol is terminated, the BLM will be required to comply with Section 106 of the

National Historic Preservation Act by following the implementing regulations at 36 CFR Part 800.

D. Termination of the National Programmatic Agreement

Should the National Programmatic Agreement be terminated or suspended for any reason, the BLM and the SHPO shall, within 30 days, bring this Protocol to the Advisory Council on Historic Preservation (Council) and attempt to convert this Protocol into a stand-alone statewide programmatic agreement.

XI. DECERTIFICATION/SUSPENSION FOR CAUSE

If a pattern of failure to comply with the terms of this Protocol can be documented, a Field Office Manager or the SHPO may, upon written notification to the the BLM State Director, request a review of a Field Office's status and its capability for carrying out the terms of the National Programmatic Agreement and this Protocol. The BLM State Director may request a review and recommendations from appropriate staff and/or the Preservation Board. Based upon these recommendations, the State Director may decertify and suspend a Field Office from operating under the terms of this Protocol. Decertification and suspension from this Protocol will require that the affected Field Office comply with Section 106 of the National Historic Preservation Act by following the implementing regulations at 36 CFR Part 800.

After decertification of a Field Office, the BLM, in consultation with the SHPO, shall develop an action plan to be followed by the decertified Field Office in order to bring that office into compliance with this Protocol. After the subject Field Office believes that it has completed all of the actions specified in the plan, the SHPO will be asked to concur. Recertification of the affected Field Office, which will allow that office to continue operating under the terms of this Protocol, will occur at the discretion of the BLM State Director after consultation with the SHPO.

XII. OTHER STATE-SPECIFIC PROCEDURES

In addition to the procedures described in Bureau-wide directives and Manuals, Wyoming BLM will be guided by manual supplements issued by the Wyoming State Office. The BLM will update these manual supplements as needed to conform to Bureau wide directives, policies issued by the Wyoming State Director, new laws, and new regulations. The SHPO will participate in development and subsequent revisions of Wyoming Manual Supplements.

XIII. APPENDICES

- A. List of Special Purpose Programmatic Agreements and MOAs still in effect
- B. Annual Reporting Requirements
- C. Actions Exempted from Case-By-Case Review
- D. Recordation and Evaluation of Linear Features

XIV. APPROVALS

BUREAU OF LAND MANAGEMENT

Wyoming State Director

Date

STATE HISTORIC PRESERVATION OFFICER

Wyoming State Historic Preservation Officer

Date

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APPENDIX D

RECORDATION AND EVALUATION OF LINEAR FEATURES

Many of the most important and prominent cultural resources in Wyoming are linear features from the historic period. These include trails, roads, railroads, canals, telegraph-lines, and other similar features.

Prehistoric trails are included in the trail category. Many historic linear features have an excellent documentary record showing when they were created, who was involved in their creation, where they are located, and what has happened to them during their existence. This is radically different than prehistoric sites and as a result, a different approach to their management is required. Therefore, a consistent method of providing the information required to record, evaluate, and manage linear features is needed in Wyoming.

General Procedures.

A cultural resource specialist will need to go to the historic record to prepare the initial Wyoming Cultural Properties Form for the linear feature (keeping in mind that many already have a Wyoming Cultural Properties Form). This should include the engineering drawings or maps of the linear feature. Sources to be checked include, but are not limited to, depending on the resource type, the GLO records, State Board of Control/Engineers records, Highway Department records, Army Topographical Corp reports, USGS topographical maps, aerial photographs, and County records. General histories of Wyoming and the region should be consulted to determine if the project or the individuals involved are important, the appropriate newspaper records should be checked to see if the construction was an event widely reported at the time, and local histories should be consulted to see if the event or individuals are considered important by the local population. Sources referenced should be indicated in the documentation, whether they yielded pertinent information or not. The information obtained or the fact that the feature and the individuals are not mentioned should be incorporated into the Wyoming Cultural Properties Form and be utilized in the evaluation of the linear feature. The State Historic Preservation Plan Transportation section should also be consulted for those relating to transportation.

During recordation/Wyoming Cultural Properties Form preparation, the integrity of the segment and its associated setting should be assessed, documented in photographs, and mapped. It is important for the recorder to keep in mind that if he/she is preparing an initial evaluation of the feature, that evaluation should be based on more than what exists within the project's area of potential effect (APE). This is because, even though the segment of the feature within the APE may lack physical integrity, significant portions of the feature may exist outside of the APE. During recordation of subsequent relocations or evaluation of previously non-recorded segments of the feature, the recorder's information will then be attached to the Wyoming Cultural Properties Form as an addendum. A recommendation will be made by the recorder relating to the contributing or non-contributing status of

the affected portions of linear features considered to be historic properties. Particular attention must be paid to the feature's period of significance if it is considered to be a historic property. The BLM cultural resource specialist will then use this information to determine if the portion in the project's APE is a contributing or non-contributing component of the linear historic property.

The BLM cultural resource specialist may assume the SHPO's concurrence with determinations of "no adverse effect" on linear historic properties where the feature is avoided by boring under it. The appropriate distance of avoidance by boring under certain types of linear features may be defined in the BLM Handbook or other guidance developed jointly between the BLM and the SHPO.

In instances where field examination indicates no physical evidence remains of a previously recorded historic linear property, no addendum to that Wyoming Cultural Properties Form is necessary. For example, if all indications of an Oregon Trail segment have been eradicated by cultivation, no addendum to that effect needs to be documented on the existing Wyoming Cultural Properties Form. However, it should be noted in the project report that historically the trail crossed a particular location and has now been destroyed by agricultural development.

Where resource evaluations are being based on inadequate information or are consistently inappropriately evaluated, this procedure may be suspended for cause. Such incidents should be documented by the SHPO and reported to the BLM as incidents occur rather than on an annual basis. If two instances of deficient documentation or evaluation are documented by the SHPO, the Field Office's cultural resources specialist and the Field Manager involved will be required to meet with the SHPO and the BLM Deputy Preservation Officer to resolve the issues of concern. If a third incident of inappropriate evaluation occurs by the subject Field Office, that office will no longer be allowed to follow the recordation and evaluation procedures for linear features provided by this Appendix to the Protocol.

After a Field Office has been suspended from using this procedure, the BLM, in consultation with the SHPO, shall develop an action plan to be followed by the suspended Field Office in order to bring that office into compliance with this portion of the Protocol. After the subject Field Office believes that it has completed all of the actions specified in the plan, the BLM Deputy Preservation Officer and the SHPO will be asked to concur. Authorization for the affected Field Office to return to operating under these procedures will occur upon joint concurrence of the BLM Deputy Preservation Officer and the SHPO.

Specific Procedures.

1. Preliminary research and ground checking for the presence of the linear features, and discovery of linear features present in the project APE during the inventory will be required. A Wyoming Cultural Properties Form is required for each linear feature evaluated. Once an initial Wyoming Cultural Properties Form has been completed, future encounters of the same feature will only require that a Wyoming Cultural Properties Form addendum be prepared, even if the original Wyoming Cultural Properties Form was in a different county. The appropriate county number will be assigned to the addendum.
2. An exception to the requirement for Wyoming Cultural Properties Forms is applied to small irrigation

systems (7 cfs or less). These systems will be identified by their name and State Engineers file number and discussed only in the report text. These systems, which typically serve several fields along a drainage, are not considered to be eligible on their own merit. In some cases where they may contribute to the importance of larger entities, such as ranch complexes, they will be included in the Wyoming Cultural Properties Form for the larger complex.

3. Historic period linear features are usually engineered/designed elements or have been mapped using engineering techniques. This information is usually stored in an official repository (i.e., part of the historic record). As a result, field mapping of linear features beyond the project boundaries is not required to evaluate the feature. The maps from the historic record will be utilized. Where maps are not available, field mapping may be required to define the nature and extent of the site prior to evaluation.

4. Maintenance and continued use of the type and extent anticipated when the resource was developed does not compromise the historic integrity of a historic resource. This includes for canals, the use of roads along the canal, and cleaning silt from the canal; for railroads, the in kind replacement of ties, rails, and switching facilities; for roads, grading and cleaning of the roads.

5. Maintenance and use that could not be anticipated compromises the historic integrity of a historic resource. Such actions would include changing headgate, or siphon design for canals; changing the ballast type, tie type, rail type or other structures for railroads; and changing of the surface material and grade of roads. Modification of the route for any linear feature may compromise its integrity.

6. Well documented linear features, those for which the appropriate types of information and evaluation are provided by a specialist, may be evaluated by the BLM in accordance with Section VI.B.4 of the Protocol.